

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**IN RE:  
GENE COGGINS,**

**PLAINTIFF,**

**vs:**

**CIVIL ACTION NO. ~~3:07CV-04-94~~**

**DARYL KIZZIAH and WIFE  
LYNN KIZZIAH  
DEFENDANTS.**

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**ANSWER TO COMPLAINT AND MOTION TO DISMISS**

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COME NOW, DARYL KIZZIAH and wife, LYNN KIZZIAH the Defendants in this action and file this their motion to dismiss the Plaintiffs Complaint and in furtherance thereof would state as follows:

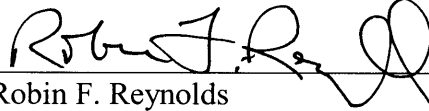
1. Defendants deny each and every allegation contained in Plaintiffs Complaint and demand strict proof thereof.
2. The complaint fails to state a claim upon which relief can be granted.
3. The Court lacks subject matter jurisdiction of this cause of action. Each Plaintiff and Defendant is a resident citizen of the state of Alabama; therefore, there is no issue of diversity pursuant to 28 U.S.C. 1332 (a) (1).
4. The Defendant, Daryl Kizziah is a resident of Alabama, whose address is more particularly described as 86 Milam Road, Jackson's Gap, Alabama 36861.
5. The Defendant Lynn Kizziah is a resident of Alabama, whose address is more particularly described as 86 Milam Road, Jackson's Gap, Alabama 36861.
6. That this matter has been previously dismissed by this Honorable Court on June 14, 2004. (See attached Exhibit "A").

WHEREFORE, Defendants Daryl Kizziah and Lynn Kizziah pray the Court will dismiss the Plaintiff's Complaint and enter such other, further or different relief as may be just and

proper.

DONE this the 12 day of ~~June~~<sup>July</sup>, 2007.

Respectfully submitted,

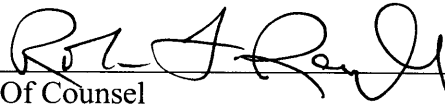
  
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Robin F. Reynolds (REY023)  
Attorney for Defendants

ROBIN F. REYNOLDS, P.C.  
139 South Broadnax Street  
Dadeville, Alabama 36853  
(256) 825-8251

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion To Dismiss on each of the following by sending each a copy of same by first class U.S. Mail, postage prepaid and properly addressed this the 12 day of ~~June~~<sup>July</sup>, 2007:

Gene Coggins  
1436 County Road #299  
Lanett, Alabama 36863

  
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Of Counsel